

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services - T & A Dept. – Nalgonda Dist. – Sri Gulam Mohammed, Sr. Accountant, Sub-Treasury, Mothkur in Nalgonda Dist - Fraudulent payments under military pensions – Disciplinary proceedings initiated – Punishment of Reversion to lower rank awarded – Appeal preferred – Punishment enhanced to that of dismissal from service – Revision Petition – Rejected – Further Representation – Punishment of dismissal – set aside – Orders – Issued.

FINANCE (Admn.III) DEPARTMENT

G.O. Rt. No. 3556

Dt. 08 -7-2010

Read the following:

1. Proceedings No.K1/12170/99-1, dt. 20-2-2003 of D.T.A., A.P., Hyderabad.
2. Orders of Hon'ble A.P.A.T. dt. 5-5-2006 passed in O.A.No.1727/2003
3. Review petition of Sri Gulam Mohammad, Jr. Accountant, dt. 28-3-2003
4. Govt. Memo. No. 19958/656/A1/Admn.III/2006, dt. 20-12-2006
5. Representation of Sri Gulam Mohammad, Sr. Gulam Mohammad, Sr. Accountant received through CMP no. 5821/CMP/2010, Dt. 24-5-2010.

O R DE R:

In a case of fraudulent drawals of Govt. money under Military pensions during the period from 1989 to 1993 at Sub-Treasury, Nalgonda , the disciplinary authority i.e., R.J.D., Region-III, Hyderabad among others, has initiated departmental action against Sri Gulam Mohammad, Sr. Accountant and after following due procedure, the disciplinary authority has awarded the punishment of Reduction to the lower rank of Jr. Accountant.

2. Aggrieved by the above said orders Sri Gulam Mohammad have filed Appeal to the Appellate Authority i.e., Director of Treasuries & Accounts, Hyderabad. After detailed examination of the Appeal, the D.T.A. has pointed out certain defects in the Inquiry and remitted back the matter to the disciplinary authority with a direction to take action for conducting further inquiry and pass appropriate orders. Against the said order the co-charge Officer Sri GMA Siddiqui filed O.A. before APAT. As per the orders of Hon'ble APAT the applicant herein was also restored to the cadre of Sr. Accountant.

3. After remitting the matter back, the disciplinary authority, duly following procedure has awarded the punishment of Reversion to lower rank of Jr. Accountant on Sri Gulam Mohammad, Sr. Accountant.

4. Against the said punishment Sri Gulam Mohammad preferred Appeal to the D.T.A., who after careful examination of the matter has observed that the contentions of the individual do not merit consideration and he is dragging the issue to keep their options open. It was considered that the acts of moral turpitude proved against the individuals actually warrant dismissal from service and as such the punishment awarded by the disciplinary authority do not commensurate with the delinquencies and after following due procedure enhanced the punishment to that of dismissal from service vide his proceedings dt. 20-2-2003.

5. Aggrieved by that Sri Gulam Mohammad has filed O.A. No.1727/2003 and the Hon'ble A.P.A.T. by its interim orders permitted to file a revision petition before Govt. and the Government have rejected his revision petition vide Memo.No.9409/50/A2/Admn.III/2003, dt. 24-6-2003.

6. The Hon'ble A.P.A.T. while disposing the O.A.No.1727/2003 by its order dated 5-5-2006 has remanded the matter to the Government for de novo consideration of the Revision petition of the applicant based on the facts and circumstances of the case and rules, regulations on the subject with regard to the contentions of the applicant against the conclusions of the Enquiry Officer, Disciplinary authority, appellate authority, as well as the quantum of punishment, within a period of 12 weeks from the date of receipt of copy of the order.

7. Accordingly Government have examined the Revision petition dt. 28-3-2003 filed by Sri Gulam Mohammad and observed that he pocketed the excess amounts drawn and the acts of fraudulent drawals have been fully proved against him and rejected his Revision petition vide Govt. Memo. 4th read above.

8. Aggrieved by the rejection of Revision petition the individual has submitted a representation to Hon'ble C.M. through reference 5th read above wherein he has stated that at no point of time the inquiry was conducted in accordance with the rules. The inquiry is full of flaws and irregularities which are enumerated hereunder.

- i) All the laws in the world proclaim that there cannot be two punishments for a single crime more over the crime was established on him since nor he had paid a single rupee to anybody neither passed any bill in the capacity of STO or Cashier. In this case the charged employee is awarded 2 punishment, one is reduction in rank from Sr. Accountant to Junior Accountant and recovered the amount of Rs.28,350/- from his salary. The second one is dismissed from service. Thus two punishments for a single crime is against the tenets of natural justice.
- ii) As per the Rule 20 of the C.C.A. Rules, documents on the basis of which charges are framed should be provided to the charged officer so that he can prepare his defense properly. In this shroff payment Register, STO number book and the copy of the P.P.O. of Jainabee were not given to him. The same is acknowledged by the inquiry officers in their inquiry report. Thus the charged officer is not given adequate opportunity to defend himself.
- iii) Generally the appellate authority will not enhance the quantum of punishment to the charged officer, however, while enhancing the punishment, the appellate authority should be guided by another authority such as public service commission. But in his case no such guidance is sought from the A.P.P.S.C.
- iv) It is clearly stated in law that the appellate authority should be independent in forming any idea against the accused officer or otherwise.
- v) On account of the flaws committed by the inquiry officer, disciplinary authority and the appellate authorities he has been put to irreparable loss and his family has been suffering a lot for the year, 1998.
- vi) In view of the above, the petitioner finally requested to set aside his dismissal orders and restore his position in the department as Sr. Accountant for which compassionate act he shall remain indebted.

9. Further it is also stated that he belongs to a poor minority community. He is having two male and two female children. All are studying. As a result of his sudden removal from service, his entire family is in shock and are financially suffering very much. He did not have any other source of income except his Govt. employment. Now, the entire family is starving and requested to kindly examine the issue thoroughly by taking lenient view against him and to reinstate him into service and to save his family from starvation conditions.

10. After careful examination of the matter, it is observed on the basis of the punishment awarded by the disciplinary authority the individual has suffered the punishment of reversion to lower rank from the date of the order and till the order of dismissal besides the recovery of the excess drawn amount and Government decided to reinstate the individual into service on humanitarian grounds by confirming the punishment of reversion to lower rank awarded by the RJD proceedings dt. 14-2-2001.

11. Accordingly, by taking a lenient view Government hereby order to reinstate Sri Gulam Mohammed, Ex-Sr. Accountant on humanitarian grounds by setting aside the punishment of dismissal from service awarded against him by the D.T.A., Hyderabad vide reference 1st read above by confirming the punishment of reversion to lower rank permanently awarded by the RJD vide his proceedings dt. 14-2-2001.

12. The proportionate amount to which the individual was found responsible for excess drawal is to be recovered from the individual. It is also further ordered that the break period in service i.e., from the date of dismissal and till his reinstatement shall be treated as dies-non.

13. The Director of Treasuries & Accounts, Hyderabad is requested to take further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

L.V. SUBRAHMANYAM
PRL. SECRETARY TO GOVERNMENT (FP)

To
Sri Gulam Mohammad,
Sr. Accountant (dismissed)
Dist. Treasury, Nalgonda.
(through the D.T.A., Hyd.)
Copy to: The D.T.A., A.P., Hyd.

// Forwarded :: By Order //

SECTION OFFICER